UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,065	06/22/2006	Daniel Nilsson	284135US2PCT	3945

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EXAMINER
SMITH, CHENEA

ART UNIT	PAPER NUMBER
2623	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
Office Action Summary	10/564,065	NILSSON ET AL.
	Examiner	Art Unit	
	CHENEA P. SMITH	2623	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>10 January 2006</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>12-22</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>12-22</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>10 January 2006</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/22/06</u>

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____

U.S. Patent and Trademark Office

PTOL-326 (Rev. 08-06)   **Office Action Summary**   Part of Paper No./Mail Date 20080703

DETAILED ACTION

Claim Objections

1.   Claim 22 is objected to under 37 CFR 1.75(c), as being of improper dependent form for

failing to further limit the subject matter of a previous claim. Applicant is required to cancel the

claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the

claim(s) in independent form. As recited in claim 21, lines 9-14, "a terminal and a network,

wherein the network includes a streaming server and an MMS-server, … wherein the terminal

includes an MMS client, a streaming client, a streaming buffer for buffering a first time interval

...". Claim 22 recites, "a streaming buffer, at which the terminal handles buffering of a first time

interval…". Claim 22 does not further limit claim 21 since the terminal must handle the

buffering of a first time interval because the buffer is included in the terminal.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

3.   Claim 19 is rejected under 35 U.S.C. 101 because the claimed invention is directed to

non-statutory subject matter. Claim 19 recites, "a computer program". A software program is

merely a set of instructions, and not a tangible, physical article or object to constitute a

manufacture, or a machine, process or composition of matter. Therefore, claim 19 does not fall within a statutory category of invention.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5.   Claims 12 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 12 recites, "at which the terminal includes an MMS-server, ..." in line 9. The specification/drawings fails to enable one of ordinary skill in the art how to make or use a user terminal, including, "an MMS-server". Figs. 4 and 5 show a user terminal including a MMS-client, but fails to indicate how a user terminal includes as MMS-server.

In order to advance prosecution on the merits, the "MMS-server" of line 9 has been interpreted as the "MMS client".

Claim 17 recites, "an MMS is initially transmitted…" in line 2. The specification fails to enable one of ordinary skill in the art how to make or use "a procedure … wherein an MMS (as understood by the Examiner to mean Multimedia Messaging Service) is initially transmitted…".

The specification at page 4, line 19 recite an MMS message but it fails to indicate how a service can be transmitted.

In order to advance prosecution on the merits, the claimed limitation has been interpreted to mean "a procedure...wherein an MMS message is initially transmitted ...".

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 12-14 and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mostafa (US20020073205, hereinafter Mostafa) in view of Richardson et al. (US20050021806, hereinafter Richardson), Jason, Jr. et al. (US6728243, hereinafter Jason) and Barde et al. (US20040268400, hereinafter Barde).

Regarding claims 12 and 19-22, Mostafa discloses a procedure to transmit streamed information at a wireless tele and data communication network to a terminal with video client, comprising:

a system including:

a terminal (receiver 24, see Fig. 2) and a network (see Fig. 2), wherein the network includes:

a streaming server (media server 22, see Fig. 2 and [0103]) and an MMS-server (MMS server 23, see Fig. 2),

wherein in the network there is selected information from where streaming data are derived (see [0104], lines 6-12),

at which the terminal includes an MMS client (see Fig. 2),

a streaming client (see Fig. 2), and

a presentation/display unit to show information (see Fig. 2), and

at a same time as the first information is shown on the display unit, new streaming data are transmitted/transferred (see [0105], lines 1-4).

Mostafa does not specifically disclose dividing information into high prioritized data, I-frames, and low prioritized data, P-frames,

wherein the high prioritized data are transmitted via a separate medium,

whereas the low prioritized data are transmitted over a standard channel,

to show, after the transmission, the high and low prioritized data in a correct sequence continually in the terminal,

a streaming buffer to buffer streaming data,

buffering a first time interval of streaming data, to show/display the first information on the display unit, or

wherein the high prioritized data are transmitted via MMS and the low prioritized data are transmitted via streaming.

In an analogous art, Richardson discloses dividing information into high prioritized data (see [0016], lines 4-9), I-frames (see [0016], lines 13-20), and low prioritized data (see [0016], lines 4-9), P-frames (see [0016], lines 13-20),

to show, after the transmission, the high and low prioritized data in a correct sequence continually in the terminal (see [0020], lines 15-22).

It would have been obvious for a person having ordinary skill in the art at the time of the invention to modify Richardson's system to include dividing streamed information into high prioritized data, I-frames, and low prioritized data, P-frames, to show, after the transmission, the high and low prioritized data in a correct sequence continually in the terminal, as disclosed by Richardson, for the advantage of improving network efficiency.

Mostafa in view of Richardson does not specifically disclose wherein the high prioritized data are transmitted via a separate medium,

whereas the low prioritized data are transmitted over a standard channel,

a streaming buffer to buffer streaming data,

buffering a first time interval of streaming data, to show/display the first information on the display unit, or

wherein the high prioritized data are transmitted via MMS and the low prioritized data are transmitted via streaming.

In an analogous art, Jason discloses high prioritized data transmitted via a separate medium, and whereas low prioritized data transmitted over a standard channel (see col 4, lines 4-50)

It would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the system of Mostafa in view o Richardson to include high prioritized data transmitted via a separate medium, and whereas low prioritized data transmitted over a standard channel, as disclosed by Jason, for the advantage of improving network efficiency.

Mostafa in view of Richardson and Jason does not specifically disclose a streaming buffer to buffer streaming data,

buffering a first time interval of streaming data, to show/display the first information on the display unit, or

wherein the high prioritized data are transmitted via MMS and the low prioritized data are transmitted via streaming.

In an analogous art, Barde discloses a streaming buffer to buffer streaming data (see [0033], lines 6-8), and

buffering a first time interval of streaming data, to show/display the first information on a display unit (see [0041], lines 6-13).

It would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the system of Mostafa in view of Richardson and Jason, and further in view of Barde to include a streaming buffer to buffer streaming data and buffering a first time interval of streaming data, to show/display the first information on a display unit, as disclosed by Barde, for the advantage of providing the illusion of continuous broadcast in a system.

Mostafa in view of Richardson, Jason and Barde does not specifically disclose wherein high prioritized data are transmitted via MMS and low prioritized data are transmitted via streaming. However, the practice of transmitting high priority data separately from low priority

data, as well as the practices of transmitting data via MMS and streaming are commonly known

in the art. Also, the practice of first transmitting I-frames, which are the reference frames of any

video, and are therefore essential to the reproduction of a video, is commonly known. The only

difference is the combination of all of the practices together in a single system. By implementing

streaming functionality within the framework of existing MMS protocol, a user is provided with

complete flexibility to decide whether and when to receive and playback media content.

      Therefore, it would have been obvious for a person having ordinary skill in the art at the

time of the invention to include transmitting the high priority I frames of Richardson's system

via the MMS of Mostafa's system and the low priority P frames of Richardson's system via the

streaming system of Mostafa's to achieve the predictable results of efficiently providing media to

a mobile terminal by enabling streaming of media content to be incorporated into a multimedia

messaging system in a manner that is compatible with already existing MMS specifications

without requiring extensive modifications to existing recommendations.

      Regarding claim 13, Mostafa in view of Richardson, Jason and Barde discloses wherein

MMS is used as an initial notification for the medium (see Mostafa, [0096], lines 10-15).

      Regarding claim 14, Mostafa in view of Richardson, Jason and Barde discloses just any

amount (see Mostafa, [0098], lines 15-19) of high prioritized data (see Richardson, [0016], lines

4-9 and 13-20) can be transmitted in an MMS (see Mostafa, [0098], lines 15-19).

8.   Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mostafa

(previously cited) in view of Richardson (previously cited), Jason (previously cited) and Barde

(previously cited), as applied to claim 12 above, and further in view of Cooper (US20040003399, hereinafter Cooper).

Regarding claim 15, Mostafa in view of Richardson, Jason and Barde discloses wherein all high prioritized data (I-frames, see Richardson, [0016], lines 4-9 and 13-20) are transmitted via MMS (see Mostafa, Fig. 2), but does not specifically disclose data transmitted at a short video sequence.

In an analogous art, Cooper discloses data transmitted at a short video sequence (see [0019], lines 18-31).

It would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the system of Mostafa in view of Richardson, Jason and Barde to include data transmitted at a short video sequence, as disclosed by Cooper, for the advantage of providing a representation of full video to be received.

Regarding claim 16, Mostafa in view of Richardson, Jason and Barde, and further in view of Cooper discloses wherein asymmetrical (see Cooper, [0016], lines 1-6 and [0019], lines 18-31) high prioritized data (I-frames, see Richardson, [0016], lines 4-9 and 13-20) are transmitted via MMS (see Mostafa, Fig. 2) at long video sequences (see Cooper, [0016], lines 1-6 and [0019], lines 18-31).

Regarding claim 17, Mostafa in view of Richardson, Jason and Barde, and further in view of Cooper discloses wherein before a streaming service is initialized, an MMS is initially transmitted to the terminal which has requested/asked for the service (see Mostafa, [0104] – [0105], line 5), the MMS includes buffer data (see Barde, [0033], lines 6-8) and information

about the data flow (see Mostafa, [0104], lines 6-12), whereby the streaming client can start streaming of buffer data without delay (see Mostafa, [0107]).

Regarding claim 18, Mostafa in view of Richardson, Jason and Barde, and further in view of Cooper discloses wherein the procedure includes:

a first step that the terminal receives an MMS-notification to the streaming session (see Mostafa, [0104], lines 1-5),

a second step to activate transmission of buffer (see Barde, [0033], lines 6-8) data from the streaming server to the streaming client (see Mostafa, [0105], lines 1-5),

a third step in which the streaming client places/puts enclosed information in its streaming buffer (see Barde, [0033], lines 6-8 and [0041], lines 6-13),

a fourth step in which the terminal initiates a session with the streaming server which starts streaming back the rest of the information (see Barde, [0033], lines 6-8 and [0041], lines 6-13 and Mostafa, [0105], lines 1-5),

a fifth step in which the streaming server transmits information to the streaming client (see Mostafa, [0105], lines 1-5), and

a sixth step in which the streaming client places/puts the information in the streaming buffer (see Barde, [0033], lines 6-8 and [0041], lines 6-13).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHENEA P. SMITH whose telephone number is (571)272-9524. The examiner can normally be reached on Monday through Friday, 7:30 am - 5:00 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chenea P. Smith/
Examiner, Art Unit 2623

/Christopher Grant/
Supervisory Patent Examiner, Art Unit 2623